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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION V

IN MATTER OF:)
)
HAGEN FARM SUPERFUND SITE) ADMINISTRATIVE ORDER
DANE COUNTY, WISCONSIN) PURSUANT TO SECTION 106
) OF THE COMPREHENSIVE
) ENVIRONMENTAL RESPONSE,
) COMPENSATION, AND
) LIABILITY ACT OF 1980, RESPONDENTS:
) AS AMENDED
)
WASTE MANAGEMENT OF WISCONSIN,)
INCORPORATED,)
)
and)
)
UNIROYAL PLASTICS COMPANY,)
INCORPORATED.)
)

I.

PREAMBLE

The following Administrative Order ("Order") is issued on this date to the Respondents pursuant to the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"), and delegated to the U.S. Environmental Protection Agency ("U.S. EPA" or "Agency") by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Regional Administrator by U.S. EPA Delegation No. 14-14-B, issued February 26, 1987, and further delegated to the Director of the Waste Management Division, Region V by Delegation No. 14-14-B, issued September 14, 1987. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), notice of issuance of this Order has been given to the State of Wisconsin.

This Administrative Order requires the Respondents, and each of them, to undertake remedial action activities at the Hagen Farm site located in Dane County, Wisconsin, and described in greater detail below, (the "Facility"), to abate an imminent and substantial endangerment to the public health or welfare or the environment that may be presented by the release or threat of a release of hazardous substances present at the Facility.

II.

PARTIES BOUND

This Administrative Order applies to and is binding upon the Respondents, their successors and assigns. The Respondents shall provide a copy of this Administrative Order to each engineer or contractor hired to perform the work required by this Administrative Order. The Respondents shall also require that any contractor provide a copy of this Administrative Order to each subcontractor retained to perform any part of the work required by this Administrative Order.

III.

DEFINITIONS

Whenever the following terms are used in this Administrative Order or the Appendices attached hereto, the definitions specified in this Section shall apply:

A. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499.

B. "Engineer(s)" means the company or companies retained by the Respondents to prepare the plans and implement the remedial action required pursuant to this Administrative Order.

C. "Facility" means the "facility" as that term is defined at Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9), where disposal of hazardous substances was conducted; which Facility is located in Dane County, Wisconsin, and is known as the Hagen Farm Superfund Site.

D. "Hazardous substance" shall have the meaning provided in Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14).

E. "WDNR" means the Wisconsin Department of Natural Resources.

F. "National Contingency Plan" shall be used as that term is used in Section 105 of CERCLA, 42 U.S.C. Section 9605.

G. "Operable Unit" as it applies to this Facility is a source control action for remediation of on-site wastes and contaminated sub-surface soils.

H. "Parties" means the United States of America and the Respondents.

I. "Record of Decision" or "ROD" means the U.S. EPA approved remedy selected to be implemented at the Facility, signed by the Regional Administrator of U.S. EPA, Region V, on September 17, 1990, concurred in by the State, and attached as Appendix I.

J. "Respondents" means Waste Management of Wisconsin, Incorporated ("WMWI") and Uniroyal Plastics Company, Incorporated ("Uniroyal").

K. "Response Costs" means any costs incurred by U.S. EPA pursuant to 42 U.S.C. Sections 9601 et seq.

L. "Section 106 Administrative Record" means the Administrative Record which includes all documents considered or relied upon by U.S. EPA in preparation of this Administrative Order. The Section 106 Administrative Record Index is a listing of all documents included in the Section 106 Record, as set forth in Appendix II.

M. "State" means the State of Wisconsin.

N. "United States" means the United States of America.

O. "Work" means the activities to be undertaken by Respondents in accordance with this Administrative Order and appendices hereto.

IV.

FINDINGS OF FACT AND DETERMINATIONS

A. The Hagen Farm site is a Facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9). The Facility is located at 2318 County highway A, Dane County, Wisconsin.

B. The Facility consists of a total of approximately 10 acres in an area of rural surrounding that is dominated largely by sand and gravel mining and agriculture. Soil and gravel mining operations are located northwest, northeast and south of the Facility. The Stoughton Airfield is located adjacent to the northwest corner of the Facility. County Highway "A" passes just south of the Facility.

C. The Facility was operated as a sand and gravel pit prior to the late 1950s. The gravel pit then used for disposal of waste material from the late 1950s to the mid-1960s. The former disposal area encompasses approximately five acres of land located in the southwestern portion of the Facility which previously had been used as a gravel quarry. The quarry was believed to be approximately 14 to 18 feet deep at the time of waste disposal. The Facility operator accepted municipal wastes, waste solvents and other various organic materials including acetone, butyl acetate, 1-2-dichloroethylene, tetrahydrofuran, solid vinyl, sludge material containing methylethyl ketone and xylenes, and toluene. In a 103(c) notification submitted to the U.S. EPA by Uniroyal, Inc., in June 1981, Uniroyal indicated that F003 and F005 wastes,

which are hazardous wastes within the meaning of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901, also were disposed of at the Facility.

D. During the period that the Facility was operated as a disposal facility, the property was owned by Nora Sundby, who is now deceased. The Facility was operated by City Disposal Corporation ("City Disposal"), an antecedent corporation of Waste Management of Wisconsin ("WMWI"). City Disposal was also the transporter of much of the waste that was deposited at the Facility. On November 30, 1977, the Facility was conveyed by the estate of Ms. Sundby to Orrin N. and Ida Mae Hagen. On February 24, 1987, Orrin Hagen conveyed ownership of the Facility to WMWI. The Facility property is currently owned by WMWI. The U.S. Rubber Company Plant at Stoughton, Wisconsin, generated industrial waste, some of which was disposed at the Facility from sometime in 1962 until August of 1966. The U.S. Rubber Company subsequently changed its name to Uniroyal, Incorporated. The Stoughton plant is now owned and operated by Uniroyal Plastics Company, Inc., which is the successor in interest to Uniroyal, Inc. in this matter. Waste materials generated at the Stoughton plant which were or may have been disposed at the Facility included solid chunks of vinyl and some organic solvents, such as toluene, acetone, xylene, tetrahydrofuran, and methyl ethyl ketone.

E. Beginning in November 1980, in response to complaints received from local residents, the WDNR began conducting groundwater sampling at nearby private water supply wells. Sampling of the on-Site monitoring wells during the period 1980-1986 indicated certain organic compounds were present in the groundwater, including benzene, ethylbenzene, tetrahydrofuran, xylenes, and toluene. In addition, nearby private water supplies on adjacent properties have also shown detectable levels of volatile organic compounds ("VOCs"). The

private wells located on the Facility had been impacted by acetone, tetrahydrofuran, vinyl chloride, xylene, trans 1,2-dichlorethene, and trichloroethylene.

F. In 1983, the State of Wisconsin brought an enforcement action for abatement of a public nuisance against WMWI and Uniroyal. At the same time, nearby residents at the Facility brought a civil action against WMWI and Uniroyal, seeking civil damages for reduced property values and potential health hazards resulting from groundwater and well contamination. The State of Wisconsin obtained a dismissal of its 1983 enforcement action against WMWI and Uniroyal after the Facility was listed on the National Priorities List ("NPL"). In 1986, the parties to civil litigation brought by the nearby residents to the Facility against WMWI and Uniroyal reached a settlement.

G. The Facility was proposed for inclusion on the NPL on September 18, 1985. The Facility was placed on the NPL in July of 1987. Subsequently, WMWI and Uniroyal, the two Respondents named by U.S. EPA in connection with the Facility to date, entered into an Administrative Order by Consent (U.S. EPA Docket No. VW 87-C-016, dated September 14, 1987) (the "Consent Order") with the U.S. EPA and the WDNR. In the Consent Order, WMWI and Uniroyal agreed to conduct a Remedial Investigation and Feasibility Study ("RI/FS") at the Facility. Accordingly, in July of 1988, upon U.S. EPA approval, in consultation with the WDNR, of the required Work Plans, fieldwork at the Facility commenced.

H. Two operable units, which are being conducted concurrently, have been defined for the Facility. Operable Unit ("OU") I, which is the Source Control Operable Unit ("SCOU"), is intended to address waste refuse and sub-

surface soils ("Waste/sub-Soils") at disposal area A and the two smaller disposal areas B and C. OU II, which is the Groundwater Control Operable Unit ("GCOU"), is intended to address the contaminated groundwater at the Facility. The OU approach was agreed upon after discussions among U.S. EPA, WDNR, and Respondents during the early phase of the implementation of the Work Plan for the RI.

I. The RI for the SCOU was completed in early 1989, and the Technical Memorandum for the SCOU was submitted in March 1989. The RI for the GCOU was initiated in July 1989 and the Technical Memorandum for GCOU was submitted in February 1990. Currently, additional field activities to define the extent of plume migration are ongoing. The RI report for the GCOU, including the Endangerment Assessment, is scheduled for completion in July 1991. The ROD for the GCOU is scheduled for early 1992.

J. In June, 1990, U.S. EPA provided the FS and the Proposed Plan for the source control remedial action to the public. An opportunity for public comment was provided. Comments were to be submitted in writing to the U.S. EPA by August 10, 1990, or orally at the public meeting held in Stoughton, Wisconsin, on August 2, 1990. The Respondents were allowed to submit comments on the Proposed Plan for the final remedy during this public comment period.

K. Considering the Proposed Plan for remedial action and the public comments received, U.S. EPA, with concurrence by the State, selected a source control remedy for remediation of on-site waste and sub-surface soils at the Facility. U.S. EPA's decision is summarized in the Record of Decision ("ROD") signed by the U.S. EPA Administrator, Region V, on September 17, 1990. The ROD is attached as Appendix I. The selected remedy includes the following: consolidation of non-native materials from disposal areas B and C into

disposal area A with subsequent backfilling of disposal areas B and C with clean soil material; installation of a WDNR NR 504 solid waste cap over disposal area A after consolidation; In-situ vapor extraction of the waste refuse and sub-surface soils in disposal area A; off-gas treatment through carbon adsorption; installation and maintenance of a fence around disposal areas A, B, and C during remedial activities; and deed and access restrictions to prevent installation of drinking water wells within vicinity of the disposal areas and to protect the cap.

L. U.S. EPA's ROD includes a discussion of U.S. EPA's reasons for the selection of the source control remedy. The remedial action ("RA") has been determined to be a cost-effective remedial action which provides adequate protection of public health, welfare, and the environment, and meets all Federal and more stringent State ARARs.

M. Contaminants are being released to the environment through the following pathways: volatilization of contaminants through the soil to the air; direct contact; and release of contaminants from waste, and soils to the groundwater. These releases provide potential for exposure to humans as well as terrestrial and aquatic life.

N. Analyses of soils, waste, and fill materials performed during the RI revealed the presence of numerous hazardous substances as defined in Section 101(14) of CERCLA, including ethylbenzene, toluene, xylene, 2-butanone, tetrahydrofuran, vinyl chloride, arsenic, lead, and mercury. These contaminants are present in the subsurface soils at and above the water table and continue to be released into the groundwater. Some compounds detected in the soils and waste and their associated maximum concentrations are listed below.

WASTE AND SOIL ANALYTICAL DATA

(ug/kg)

<u>Chemical</u>	<u>Maximum</u>
<u>SEMI-VOLATILES</u>	
Naphthalene	46
1,4-Dichlorobenzene	280
Diethylphthalate	48
Di-n-Butylphthalate	690
Fluoranthene	67
Butylbenzylphthalate	18,000
bis(2-Ethylhexyl) Phthalate	120,000
Di-n-Octyl Phthalate	5,300
Phenanthrene	67
Unknown Semivolatiles	1,261,985
<u>PESTICIDES/PCBS</u>	
Dieldrin	11.6
4,4'-DDE	18.2
4,4'-DDD	128
4,4'-DDT	19.2
PCB-1248	338
PCB-1254	222
PCB-1242	284

O. Preliminary data developed during analyses of the groundwater performed during the RI for the SCOU revealed the presence of numerous hazardous substances as defined in Section 101(14) of CERCLA, including ethylbenzene, toluene, xylene, tetrahydrofuran, 2-Butanone, and metals. Some

compounds detected in groundwater and their associated maximum concentrations are listed below.

GROUNDWATER ANALYTICAL DATA
(ug/l)

<u>Chemical</u>	<u>Maximum</u>
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VOLATILES

2-Butanone	4,400,000
Ethylbenzene	4,400
Tetrahydrofuran	630,000
Toluene	550
Vinyl chloride	77
Total Xylenes	35,000

SEMI-VOLATILES

Naphthalene	8
1,4-Dichlorobenzene	10
Diethylphthalate	5
Phenol	5,600
Benzoic Acid	29,000
Benzyl Alcohol	26
bis(2-Ethylhexyl) Phthalate	34
Di-n-Octyl Phthalate	5
4-Chloro-3-Methylphenol	7
2,4-Dimethylphenol	330
4-Methylphenol	6,100
Bis(2-Chloroisopropyl) Ether	19

METALS

Arsenic	25.2
Barium	1,570

Lead

6

Mercury

6.5

This preliminary groundwater data indicates that the landfill that is part of this Facility is the source of the contamination found in the groundwater. U.S. EPA anticipates that data regarding contamination of the groundwater will be further developed during the RI for the GOOU.

P. From the late 1950s to the mid-1960s "hazardous substances" as defined in Section 101(14), of CERCLA, 42 U.S.C. Section 9601(14), were deposited, stored, disposed of, placed, or located at the Facility.

Q. The past, present, and/or future migration of hazardous substances from the Facility constitute an actual, and/or threatened "release" into the environment as defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22), and may present an imminent and substantial endangerment to the public health or welfare or the environment.

R. From the late 1950s to the mid-1960s, City Disposal Corporation was the "owner" and/or "operator" of the Facility as defined in Section 101(20) of CERCLA, 42 U.S.C. Section 9601(20), and "owned" and/or "operated" the Facility within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. Section 9607(a)(2). City Disposal Corporation was subsequently purchased by Waste Management of Wisconsin, Incorporated. The Facility property is currently owned by WMWI.

S. The U.S. Rubber Company plant at Stoughton, Wisconsin, generated industrial waste, some of which was deposited at the Facility beginning sometime in 1962 and continuing through August of 1966. The U.S. Rubber company subsequently changed its name to Uniroyal, Incorporated. The

Stoughton plant is now owned and operated by Uniroyal Plastics Company, Incorporated, which is the successor in interest to Uniroyal, Incorporated.

T. Respondents are "persons" as defined in Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21), and, based upon information available to U.S. EPA, each Respondent generated and/or transported hazardous substances which were disposed of at the Facility, making each Respondent a "liable person" with respect to the Facility within the meaning of Section 107 of CERCLA, 42 U.S.C. Section 9607. The responses to information requests and other documents supporting the Respondents' liability for performance of the actions required by this Administrative Order are contained in the Section 106 Administrative Record for the Administrative Order, which supports the issuance of the Administrative Order under Section 106 of CERCLA. The Index for the Section 106 Administrative Record is attached as Appendix II.

U. The actions required by this Administrative Order are necessary to protect the public health or welfare or the environment, and are consistent with the National Contingency Plan, 40 CFR Part 300 et seq., as amended.

V.

ORDER

Based upon the foregoing Findings of Fact and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby ordered that Respondents perform the work as described below and in the Scope of Work ("SOW") attached hereto, and made an enforceable part hereof, as Appendix III.

A. Work to be Performed

1. The Respondents shall, within forty-five (45) days of the effective date of this Order, submit to U.S. EPA a Remedial Design and Remedial Action

("RD/RA") Work Plan to implement all portions of the recommended alternative outlined in the Record of Decision for the Facility and in the Scope of Work (Appendix III).

2. The RD/RA Work Plan shall be written in sufficient detail to fully address all necessary design parameters of the recommended alternative, shall be consistent with the SOW and shall be consistent with U.S. EPA's June 1986 Superfund Remedial Design and Remedial Action Guidance. In addition, the RD/RA Work Plan shall include, but not be limited to, the following elements:

- A Field Operating Plan for Waste Consolidation
- A Contingency Plan for Waste Consolidation
- A Sampling and Testing Plan for Clay

The RD/RA Work Plan and other documents submitted by the Respondents shall demonstrate that the Respondents can properly conduct the actions required by this Order.

3. U.S. EPA shall review and approve/disapprove the RD/RA Work Plan. If the RD/RA Work Plan is acceptable, approval shall be granted, in writing, and the RD/RA Work Plan shall become an integral and enforceable element of this Order. If the RD/RA Work Plan is disapproved, U.S. EPA shall state to the Respondents, in writing, the reasons for disapproval. Respondents shall, within thirty (30) calendar days of receipt of U.S. EPA's letter stating disapproval, incorporate all changes requested by U.S. EPA into the RD/RA Work Plan and submit the Amended RD/RA Work Plan to U.S. EPA. If approved, the Amended RD/RA Work Plan shall become an integral and enforceable element of this Order. Failure to incorporate all changes requested by U.S. EPA into the RD/RA Work Plan shall constitute a violation of the terms of this Order.

4. Respondents shall begin implementation of the RD/RA Work Plan immediately upon receipt of written approval by U.S. EPA. Unless otherwise directed by U.S. EPA and as mandated by Section 122(e)(6) of CERCLA, the Respondents shall not commence field activities until they receive written approval of the RD/RA Work Plan by U.S. EPA. Respondents shall complete the tasks outlined in the RD/RA Work Plan in accordance with the schedule outlined in the attached SOW. Failure of the Respondents to properly implement all aspects of the RD/RA Work Plan shall be deemed to be a violation of the terms of this Order.

5. The Site Health and Safety Plan developed pursuant to this Order shall be in accordance with U.S. EPA's guidance and protocol. After approval of the Site Health and Safety Plan by U.S. EPA Representatives, Respondents shall implement the Plan during all phases of activity at the Facility.

B. Respondents' Contractor and Remedial Design

All remedial work to be performed by the Respondents pursuant to this Administrative Order shall be under the direction and supervision of a qualified professional engineer. Prior to the initiation of remedial work at the Facility, the Respondents shall notify U.S. EPA and the WDNR, in writing, of the name, title, and qualifications of any proposed engineer to be used in carrying out the remedial work to be performed pursuant to this Administrative Order. Selection of any such engineer shall be subject to approval by U.S. EPA in consultation with WDNR.

VI.

QUALITY ASSURANCE

Respondents shall use quality assurance, quality control, and chain of custody procedures in accordance with U.S. EPA's "Interim Guidelines and

Specifications For Preparing Quality Assurance Project Plans" (QAM-005/80) and subsequent amendments. Prior to the commencement of any sampling and analysis under this Administrative Order, Respondents shall submit a Quality Assurance Project Plan ("QAPP") to U.S. EPA and WDNR that is consistent with the Scope of Work, Work Plans, and applicable guidelines. Prior to the development and submittal of a QAPP, Respondents shall attend a pre-QAPP meeting sponsored by U.S. EPA to identify all monitoring and data quality objectives. U.S. EPA, after review of Respondent's QAPP and WDNR's comments thereon, will notify the Respondents of any required modifications, conditional approval, disapproval, or approval of the QAPP. Upon notification of disapproval or any need for modifications, Respondents shall make all required modifications to the QAPP within thirty (30) calendar days of receipt of such notification.

Respondents shall ensure that U.S. EPA personnel or their authorized representatives are allowed access to any laboratory utilized by the Respondents in implementing the Order. Respondents shall ensure that any such laboratory will analyze samples submitted by U.S. EPA or WDNR for quality assurance monitoring.

VII.

FACILITY ACCESS, SAMPLING, DOCUMENT AVAILABILITY

A. To the extent that the Facility or other areas where work under this Order is to be performed is under ownership or possession by someone other than the Respondents, Respondents shall obtain all necessary access agreements. In the event that after using their best efforts Respondents are unable to obtain such agreements, Respondents shall immediately notify U.S. EPA and U.S. EPA may then, at its discretion, assist Respondents in gaining

access, to the extent of their authority and as provided by appropriate U.S. EPA guidance.

B. Respondents shall provide access to the Facility to U.S. EPA employees, contractors, agents, and consultants, as well as to representatives of the WDNR, at all reasonable times, and shall permit such persons to be present and move freely about the area in order to conduct inspections, take samples, and to conduct other activities which U.S. EPA or WDNR determine to be necessary. Respondents shall ensure that U.S. EPA and WDNR personnel and authorized representatives are allowed to oversee all remedial activities, and are granted access to the laboratory(ies) and to the records of the laboratory(ies) utilized by the Respondents for analyses required under the Work Plan.

C. The Respondents shall make available to U.S. EPA and the WDNR the results of all sampling and/or test or other data generated by the Respondents with respect to the implementation of this Administrative Order, and shall submit these results in monthly progress reports as described in Section IX of this Administrative Order.

D. At the request of U.S. EPA or the WDNR, the Respondents shall allow split or duplicate samples to be taken by U.S. EPA, the WDNR and/or their authorized representatives, of any samples collected by the Respondents pursuant to the implementation of this Administrative Order. The Respondents shall notify U.S. EPA and the WDNR not less than fourteen (14) calendar days in advance of any sample collection activity. In addition, U.S. EPA and the State shall have the right to take any additional samples that U.S. EPA or the WDNR deem necessary.

VIII.

PROGRESS REPORTS

A. The Respondents shall provide to U.S. EPA and WDNR written monthly progress reports which: (1) describe the actions which have been taken toward achieving compliance with this Administrative Order during the previous month as well as such actions, data, and plans which are scheduled for the next month; (2) include all results of sampling and tests and all other data received by the Respondents during the course of the Work; (3) include all plans and procedures completed under the RD/RA Work Plan during the previous month; and (4) include sections detailing anticipated problems/recommended solutions, problems encountered/ resolved, deliverables submitted, upcoming events/activities planned, key personnel changes, and scheduling. These progress reports are to be submitted to U.S. EPA and WDNR by the tenth day of every month following the effective date of this Administrative Order.

B. If the date for submission of any item or notification required by this Administrative Order falls upon a weekend or state or federal holiday, the time period for submission of that item or notification is extended to the next working day following the weekend or holiday.

C. Upon the occurrence of any event during the performance of the Work which, pursuant to Section 103 of CERCLA, requires reporting to the National Response Center, Respondents shall immediately orally notify the U.S. EPA Remedial Project Manager ("RPM") and WDNR, or, in the event of unavailability of the U.S. EPA RPM, the Emergency Response Branch, U.S. EPA Region V, in addition to the reporting required by Section 103. Within fourteen (14) calendar days after the onset of such an event, Respondents shall furnish to the U.S. EPA and WDNR a written report setting forth the events which occurred and the measures taken, and to be taken, in response thereto. Within thirty

(30) calendar days after the conclusion of such an event, Respondents shall submit a report to U.S. EPA and WDNR setting forth all actions taken to respond to the event.

IX.

REMEDIAL PROJECT MANAGER/PROJECT COORDINATORS

A. U.S. EPA will designate a Remedial Project Manager ("RPM") and WDNR will designate a Project Coordinator for the Facility, to observe and monitor the progress of any activity undertaken pursuant to this Administrative Order. The RPM shall have the authority lawfully vested in an RPM by the National Contingency Plan, 40 CFR Part 300, as amended. The Respondents shall also designate a Project Coordinator who shall have primary responsibility for implementation of the Work at the Facility.

B. To the maximum extent possible, except as specifically provided in this Administrative Order, communications between the Respondents and U.S. EPA concerning the terms and conditions of this Administrative Order shall be made between Respondents' Project Coordinator and the RPM.

C. Within seven (7) calendar days after the effective date of this Administrative Order, the Respondents shall provide written notice to the U.S. EPA RPM, the U.S. EPA's Office of Regional Counsel, and WDNR in writing, of the name, address and telephone number of the designated Project Coordinator and an alternate Project Coordinator.

X.

RETENTION AND AVAILABILITY OF INFORMATION

A. The Respondents shall make available to U.S. EPA and WDNR, and shall retain during the pendency of this Administrative Order, and for six years after termination of this Order, all records and documents in their

possession, custody, or control which relate to the performance of this Administrative Order, including, but not limited to, documents reflecting the results of any sampling, tests, or other data or information generated or acquired by the Respondents or on behalf of the Respondents with respect to the Facility. At the conclusion of the six year period following termination of this Order, the Respondents shall provide written notice to the U.S. EPA, RPM, the U.S. EPA's Office of Regional Counsel, and WDNR, ninety (90) calendar days prior to the destruction of such documents, and upon request by U.S. EPA or WDNR, the Respondents shall relinquish custody of the documents to U.S. EPA or the WDNR.

B. The Respondents may assert business confidentiality claims covering part or all of the information provided in connection with this Administrative Order in accordance with Section 104(e)(7)(F) of CERCLA, 42 U.S.C. Section 9604(e)(7), and pursuant to 40 CFR Section 2.203(b) and applicable State law.

C. Information determined to be confidential by U.S. EPA will be afforded the protection specified in 40 CFR Part 2, Subpart B and, if determined to be entitled to confidential treatment under State law by WDNR, afforded protection under State law by WDNR. If no such claim accompanies the information when it is submitted to the U.S. EPA and WDNR, the public may be given access to such information without further notice to the Respondents.

D. Information acquired or generated by the Respondents in performance of the Work that is subject to the provisions of Section 104(e)(7)(F) of CERCLA, 42 U.S.C. Section 9604(e)(7)(F), shall not be claimed as confidential by the Respondents.

XI.

PENALTIES FOR NONCOMPLIANCE

The Respondents are advised, pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful violation or subsequent failure or refusal to comply with this Order, or any portion thereof, may subject the Respondents to a civil penalty of no more than \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. Failure to comply with this Administrative Order, or any portion thereof, without sufficient cause may also subject the Respondents to liability for punitive damages in an amount equal to three times the amount of any costs incurred by the U.S. EPA as a result of the Respondents' failure to take proper action, pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

XII.

OTHER CLAIMS

U.S. EPA and WDNR are not to be construed as parties to, and do not assume any liability for, any contract entered into by the Respondents in carrying out the activities pursuant to this Administrative Order. The proper completion of the Work under this Administrative Order is solely the responsibility of the Respondents.

XIII.

NOTICES

Whenever, under the terms of this Administrative Order, notice is required to be given, or a report or other document is required to be forwarded by one party to another, such correspondence shall be directed to the following individuals at the addresses specified below:

As to the United States or U.S. EPA;As to WDNR

a. Jeffrey A. Cahn
Assistant Regional Counsel
Attn: Hagen Farm Site

Theresa Evanson
State Project Coordinator
Hagen Farm Site

(5CS-TUB-3)
Office Regional Counsel
U.S. Environmental Protection
Agency
230 South Dearborn Street
Chicago, Illinois 60604

Department of Natural
Resources
Box 7921
Madison, Wisconsin 53707

and;

- b. Jae B. Lee
Remedial Project Manager
Hagen Farm Site
Remedial and Enforcement Response Branch (5HS-11)
U.S. Environmental Protection
Agency
230 South Dearborn Street
Chicago, Illinois 60604

XIV.

CONSISTENCY WITH NATIONAL CONTINGENCY PLAN

The U.S. EPA has determined that the Work, if properly performed as set forth in Section V hereof, is consistent with the provisions of the National Contingency Plan pursuant to 42 U.S.C. Section 9605.

XV.

RESERVATION OF RIGHTS

A. Nothing contained herein shall be construed to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this Administrative Order, or from taking the legal or equitable action it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9601 et seq., or any other applicable law.

B. U.S. EPA reserves its right to bring an action against Respondents pursuant to Section 107 of CERCLA, 42 U.S.C. Section 9607, for recovery of any costs incurred by U.S. EPA in connection with the Hagen Farm Facility.

XVI.

MODIFICATION

Except as provided for herein, there shall be no modification of this Administrative Order without written approval of U.S. EPA.

XVII.

EFFECTIVE AND TERMINATION DATES

A. This Administrative Order shall be effective March 15, 1991.

B. When the Respondents determine that they have completed the Work, they shall submit to U.S. EPA and WDNR a Notification of Completion. Upon receipt of such Notification, U.S. EPA and WDNR shall schedule final inspections and close out activities as described in the June 1986 U.S. EPA Superfund Remedial Design and Remedial Action Guidance. Such activities shall include, at a minimum, the following:

- 1) "Prefinal Construction Conference" by U.S. EPA, WDNR and the Respondents;
- 2) "Prefinal Inspection" by U.S. EPA and WDNR;
- 3) Preparation of a "Prefinal Inspection Report" by the Respondents.
- 4) "Final Inspection" by U.S. EPA, WDNR, and the Respondents.

The final remedial action report shall summarize the work performed, any modification to the RD/RA Work Plan, and the performance levels achieved. The summary shall include or reference any supporting documentation.

Upon receipt of the final remedial action report, U.S. EPA and WDNR shall review the accompanying report and any other supporting documentation and conduct any appropriate site inspection. U.S. EPA shall issue a Certification of Completion upon its determination that the Respondents have

satisfactorily completed the Work and have achieved standards of performance required under this Administrative Order for this Operable Unit.

XVIII.

ACCESS TO ADMINISTRATIVE RECORD

The Section 106 Administrative Record supporting the above Findings of Fact and Determinations is available for review on weekdays between the hours 8:00 a.m. and 5:00 p.m., at the U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Please contact Jeffrey A. Cahn, Assistant Regional Counsel at 312-886-6670, for review of the Section 106 Administrative Record at this location. The 106 Administrative Record is also available for review at the Stoughton Public Library, 304 S. 4th St., Stoughton, Wisconsin 53589.

XIX.

OPPORTUNITY TO CONFER

A conference has been scheduled for March 13, 1991, 10:00 am in the northwest corner conference room on the 11th floor, U.S. EPA Region V, 230 South Dearborn Street, Chicago, Illinois. You may attend this conference to discuss with U.S. EPA this Administrative Order and its applicability to you. You may appear in person and/or by an attorney or other representative.

Any comments which you have regarding this Administrative Order, its applicability to you, the correctness of any factual determinations upon which the Order is based, the appropriateness of any action which you are ordered to undertake, or any other relevant and material issue must be reduced to writing and submitted to U.S. EPA on or before March 13, 1991. Any such writing should be directed to Jeffrey A. Cahn, at the address cited above.


Respondent shall provide notice in writing to Jeffrey A. Cahn, at the address cited above, stating its intentions to comply with the terms hereof.

Such notice shall be received by U.S. EPA on or before the effective date of this Administrative Order. In the event any Respondent fails to provide such notice, said Respondent shall be deemed not to have complied with the terms of this Administrative Order.

Respondents are hereby notified that U.S. EPA will take any action pursuant to Section 106 (a) of CERCLA, which may be necessary in the opinion of U.S. EPA for the protection of public health or welfare or the environment, and Respondents may be liable under Section 107 (a) of CERCLA, for the costs of these government actions.

IT IS SO ORDERED:

BY:

 David A. Ullrich

DATE:

3/7/91

Director, Waste Management Division
U.S. EPA, Region V

EFFECTIVE DATE: March 15, 1991